

Initiation of ESA consultation on North Dakota Department of Environmental Quality's proposed water quality standards revisions

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To: drew_becker@fws.gov <drew_becker@fws.gov>

Cc: Jessica N. Johnson (jessica_n_johnson@fws.gov) <jessica_n_johnson@fws.gov>

Dear Mr. Becker, EPA would like to initiate ESA consultation on North Dakota's proposed water quality standards (WQS). A Notice of Intent to amend and adopt the rules was issued on August 12, 2020, and a public hearing was held October 12, 2020. The North Dakota Department of Environmental Quality (NDDEQ) is in the process of responding to public comments.

NDDEQ proposes the following revisions to its WQS, which reflect the Clean Water Act (CWA) Section 304(a) criteria recommendations for the protection of aquatic life:

- update aquatic life criteria for ammonia;
- adopt selenium fish flesh criteria to be applied in a hierarchy process beginning with Egg-Ovary of 15.1, Whole Body of 8.5 and Muscle of 11.1 mg/kg as dry weight; and
- update the chronic aquatic life mercury criteria from 0.012 ug/l to 0.88 ug/l total recoverable.

NDDEQ's proposed WQS also include several non-substantive changes.

NDDEQ anticipates that the state will adopt the revised WQS in late spring/early summer, at which point the Department will submit the WQS to EPA for review and approval or disapproval. EPA's approval of the WQS may be subject to the results of consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act.

Following is a the link to NDDEQ's proposed WQS revisions:

<https://deg.nd.gov/PublicComment/Corrected-SQWS-20201023.pdf>

Thank you. Please feel free to call me with any questions (303) 312-6238. I look forward to working with you.

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